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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,546	04/11/2007	Lutz Dorfmueller	10191/4684	4728
26646 7590 09/09/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER VALONE, THOMAS F				
ART UNIT 2831		PAPER NUMBER		
MAIL DATE 09/09/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/582,546

**Applicant(s)**

DORFMUELLER ET AL.

**Examiner**

THOMAS F. VALONE

**Art Unit**

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 6/9/06

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 5, 6, 8 and by dependence, claim 7, are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 5-8 not been further treated on the merits.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berger (WO 2004/097392) in view of Ishida (4,916,384) of record.

Regarding claims 1-3, Berger teaches a sensor for determining the concentration of particles in gases (Machine Translation, par. 2) having at least one substrate element and a measuring area between the first and second electrodes (14, par. 31 and Fig. 1) with a voltage applied between the electrodes (Fig. 6, 7 and AC signals, par. 39).

Berger does not explicitly teach an asymmetric electric field being formed on the measuring area where the electrodes are not parallel to each other and the distance between them increases or decreases along the length of the electrode.

Ishida, from the same field of endeavor, teaches an asymmetric electric field in the measuring area (13, col. 4, line 3-10) where the electrodes are not parallel to each

other and the distance between them increases or decreases along the length of the electrode (Fig. 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included an asymmetric electric field where the electrodes are not parallel to each other and the distance between them increases or decreases along the length of the electrode. as taught by Ishida, in the Berger measuring area by modifying the electrode design, for the benefit of determining the volumetric concentration of soot particles in the measuring area considering conductivity and flow rate, as suggested by Ishida (col. 3, line 50-55 and line 65-67).

Regarding claim 4, Berger teaches the first and second electrodes forming an interdigital comb structure (Fig. 1) where at least one measuring electrode has finger electrodes with varying widths (par. 16). Berger further points out that the width or area variation of the two electrodes is maximally, one-tenth of the distance between the electrodes (par. 16).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Berger (2007/0158191) teaches a sensor for detecting particles that is a US equivalent for the primary PCT reference; Rhodes and Bosch teach a particulate sensor system; Sarholz teaches a self-recovering soot detector.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS F. VALONE whose telephone number is (571)272-8896. The examiner can normally be reached on Tu-W-Th, 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas F Valone/  
Patent Examiner, Art Unit 2831

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